

**In The United States District Court
For The Western District of Massachusetts**

Julio Toledo Jr.,et. al

CIVIL ACTION NO.: 04-CV-30163-MAP

PLAINTIFFS

v.

IBPO, Local 364,

DEFENDANT

v.

Springfield Police Department,

DEFENDANT

PLAINTIFFS' MOTION TO AMEND AND MODIFY COMPLAINT

NOW COMES Plaintiffs, union members, in the above-captioned matter and respectfully moves this Honorable Court that they be allowed to amend their Complaint to modify allegations against Defendants International Brotherhood of International Police Officers, Local 364 and to add claims against Defendant City of Springfield Police Department.

This underlying motion seeks to amend the complaint to (1) add allegations, (2) add claims and (3) update and substitute the complaint concerning the named defendants.

Rule 15 of the Federal Rules of Civil Procedure governs the amendment of pleadings, and leave of court to amend "shall be freely given when justice so requires." An amendment will be allowed so long as the party that seeks to amend has not unduly delayed, is not acting in bad

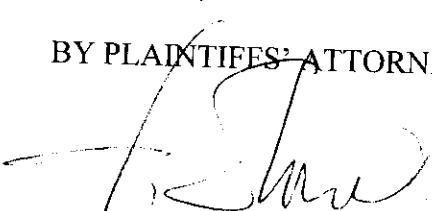
faith or with an intent to delay, when the defendant will not be unduly prejudiced, and when the amendment is not futile, see *Resolution Trust Corp. v. Gold*, 30 F.3d 251, 253 (1st Cir. 1994).

For the reasons stated herein, it is respectfully requested that the Court permit Plaintiffs' Motion to Amend their Complaint, and that the Court order that the complaint be amended such that the First Amended Complaint be deemed filed, and that the Court grant such other and further relief as the Court may deem proper

Dated: November 15, 2004

Respectfully submitted.

BY PLAINTIFFS' ATTORNEY



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CERTIFICATE OF SERVICE

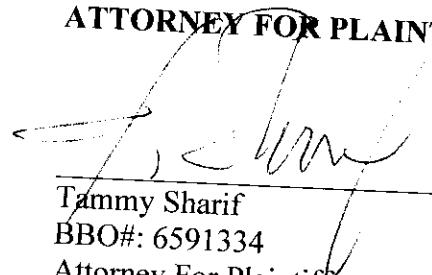
The undersigned hereby certifies that a true copy of the within Motion to Amend Complaint was this day served upon all parties to this action by mailing same, first class postage prepaid to all Attorneys of record.

SIGNED under the pains and penalties of perjury.

DATE: NOVEMBER 14, 2004

Respectfully submitted,

ATTORNEY FOR PLAINTIFFS



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